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May 20, 2005

VIA HAND DELIVERY

Lynne T. T. Toyofuku, Esq.
Nichole K. Shimamoto, Esq.
Marr Hipp Jones & Wang
1001 Bishop Street
1550 Pauahi Tower
Honolulu, Hawaii 96813

Re: *Moffett v. SMF Systems Corporation, et al.*
CV No. 03-00130 MLR/BMK, United States District Court for
the District of Hawaii

Dear Counsel:

We are in receipt of your letter dated May 19, 2005, in which you request that Plaintiff revisit his Complaint and inform you as to his willingness to stipulate to the dismissal of certain claims and parties from this action. In your letter, you further state that Judge Real mentioned that certain claims are barred by the statute of limitations and that the "IIED and NIED claims should be dismissed[.]"

Our recollection of the May 17th status conference does not comport with yours. We recall Judge Real expressing that the Complaint appeared to claim retaliation for actions that occurred outside the statute of limitations and also for retaliation that occurred within the statute of limitations. Additionally, we recall him stating that the IIED and NIED claims were not clear to him. Essentially, he explained that the issues need to be narrowed for trial and suggested that this be accomplished through stipulations and/or by motion.

If Defendants would like to request that certain specific claims and/or parties be dismissed through stipulation,¹ then we request that Defendants inform us of those specific requests and of the bases for those requests.

¹ Aside from the proposed Stipulation to Dismiss individual Defendants Tom and Ruby Caffrey from the claims arising under Title VII and the False Claims Act. As mentioned to Ms. Shimamoto during our telephone discussion on May 19, 2005, we are currently

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May 20, 2005
Page 2

Please do not hesitate to contact us if you have any questions. Thank you
for your prompt attention to this matter.

Very truly yours,

GOODSILL ANDERSON QUINN & STIFEL
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Barbara A. Petrus
Donna H. Kalama
Anne T. Horiuchi Bell

BAP/DHK/ATHB:athb

considering Defendants' request and we plan on responding to your proposal by the end of
next week.